

State of Hawai'i  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Division of State Parks  
Honolulu, Hawai'i 96813

February 13, 2009

Board of Land and Natural Resources  
State of Hawai'i  
Honolulu, Hawai'i

SUBJECT: Request for Approval to Assign Lease S-5291 to Adella Au Johnson and Mahina Johnson and Assign Lease S-5308 to the May L. Au Living Trust Ahupua'a 'O Kahana State Park, O'ahu

Act 5, enacted by the State Legislature in 1987, authorized the Department of Land and Natural Resources to enter into residential leases at Kahana State Park. A total of 31 residential permits were issued to families and individuals living in Kahana in 1970 when the State acquired the *ahupua'a*. This resulted in 31 residential leases being signed in 1993 for a term of 65 years. The lease states that assignment of the lease is allowed, "provided, that with the prior written approval of the Board the assignment and transfer of the written lease or interest thereof may be made if the assignee is a member of Lessee's family." [Par. 14(a)]

Lease S-5291

Lease S-5291 for Lot B-1 on Trout Farm Road was executed with Ms. Adella Au Johnson in 1993. Ms. Johnson initially requested to assign her lease to include her granddaughter, Tiare L. Johnson, as co-lessee and this assignment was approved by the Land Board at its meeting held on March 14, 2008. The legal documents were not filed to add Tiare L. Johnson as co-lessee. Mrs. Johnson now requests that instead of Tiare L. Johnson, she be allowed to add Ms. Mahina Johnson, another granddaughter as co-lessee. As co-lessee, Ms. Mahina Johnson will reside in Kahana and assist her grandmother with construction of a new house and her lease requirement of 25 hours of interpretive service each month. The Johnsons have agreed to pay all expenses incurred to assign the lease. There will be no changes to the text or conditions of the standard Kahana lease document.

Lease S-5308

Clarence and May Au, husband and wife, obtained their residential lease in Kahana in May 2003 through a foreclosure auction. They held the lease as co-lessees and when Mr. Au died on October 22, 2003, the lease for Lot B-3 on Trout Farm Road was assigned solely to Mrs. Au. She established the May L. Au Living Trust on November 6, 2008 and requests assignment of the lease to her Living Trust. The assignment of lease would be to the named beneficiaries of the Trust, Lynn Cooksey and Valerie Thim, daughters of Mrs. Au. Both of these beneficiaries are or could be qualified to hold the lease under the assignment provisions of the lease. Mrs. Au has agreed to pay all expenses incurred to assign the lease. There will be no changes to the text or conditions of the standard Kahana lease document.

The precedent for the assignment of a Kahana lease to a trust with named beneficiaries was set in April 2008 when the Land Board approved this action for another lessee at Kahana State Park. The Department of the Attorney General reviewed the matter and advises such an assignment is allowable with the understanding that approval of the assignment does not extend to any change in beneficiaries or another assignment, and the assignment from the trust to any beneficiaries will also require approval of the Board.

RECOMMENDATION:

The original residential leases for Kahana State Parks were all signed with one lessee in 1993, but since this time, several lessees have requested to assign the lease by adding a co-lessee or assigning their lease to their trust. The Department of the Attorney General has concurred with these amendments. Therefore, it is recommended that the Board approve the following assignments of residential leases at Kahana State Park as requested by the lessees:

1. Assign Lease S-5291 to include Mahina Johnson as co-lessee with her grandmother, Adella Au Johnson.
2. Assign Lease S-5308 to the May L. Au Living Trust with Lynn Cooksey and Valerie Thim as named beneficiaries.

Any change in beneficiaries and any other or further assignment are subject to Board approval. All legal documents prepared for these assignments are subject to review and approval by the Attorney General.

Respectfully submitted,



DANIEL S. QUINN  
State Parks Administrator

APPROVED FOR SUBMITTAL:



LAURA H. THIELEN, Chairperson